

**Minutes
Williamson County
Board of Zoning Appeals
April 27, 2006**

Members Present

Dave Ausbrooks, Chairman
Don Crohan
Steve Wherley
Sue Workman

Staff Present

Lee Sanders
Linda Hodges
Brenda Midgett
Ken Young, County Attorney

The Williamson County Board of Zoning Appeals met in regular session on April 27, 2006, in the Auditorium of the Williamson County Administrative Complex. Chairman Dave Ausbrooks opened the meeting with a public statement that he read stating that the Board of Zoning Appeals is made up of five citizens nominated as Board members by the County Mayor. One member is a Planning Commissioner, one member may be a County Commissioner and the remaining members are not otherwise connected with County Government. He went on to say the Board will hear from anyone who has anything to say to the Board relevant to the request at hand. However, the Board will not view or hear anything that does not have direct bearing on the item being heard. He requested that all comments be addressed to the Board.

Chairman Ausbrooks then noted that Vice-Chairman Jagers was not able to attend tonight's meeting due to illness and asked everyone to remember him with a moment of silence.

Chairman Ausbrooks then asked the members to consider the minutes. Don Crohan made the motion to approve the minutes of the February 23, 2006, meeting as printed, and Sue Workman seconded the motion. The motion was unanimously approved.

ITEM 1

A request by Twyla Perry for a setback variance to allow a single-wide mobile home to be replaced by single family residence at 8806 Horton Highway. The property is zoned Crossroads Center and is located in the 3rd district.

Linda Hodges read the staff report, and reviewed the background (see agenda report). The overhead projector was utilized to view the tax map and site plan. Lee Sanders indicated to the Board the location of the proposed house. He stated that the old mobile home has been at this site since the early '70's and it will be replaced by a house being brought in from Smyrna. Mr. Sanders then stated the site has two drainage ditches, one on each side, and the septic is placed in the rear of the lot. He stated that the proposed location of the house would encroach the 50' front setback requirement from Horton Highway by 10'. Mr. Sanders informed the Board that the septic and building codes departments have both approved the site.

This item was represented by Twyla Perry. Ms. Perry stated the mobile home has been at this site since July of 1970 and she would like to replace it with the house because of the age of the mobile home. She also stated she would like to have a larger home.

Chairman Ausbrooks opened the meeting for public hearing.

There being no one to speak, Chairman Ausbrooks closed the public hearing.

Steve Wherley asked staff if the house could be placed at an angle toward the highway in order to meet the required setbacks.

Mr. Sanders stated it could not be turned at all.

Don Crohan asked staff if the house would be placed within a 100 year floodplain.

Mr. Sanders stated no, the house would not be placed within the 100 year floodplain.

Steve Wherley pointed out to the staff that he noticed from the report that commercial structures were close to the site.

Linda Hodges stated two parcels south of the site contain commercial buildings that set approximately 20' from Horton Highway.

Chairman Ausbrooks asked staff if building inspectors approved of the new house.

Lee Sanders stated yes, it had been approved by the building inspector.

Don Crohan made a motion to approve the request for a front setback variance of 10' because it met the requirements of Section 9601, the narrowness of the property and the property being in a floodplain, and being in a mixed area with commercial buildings within 20' of the right-of-way. Sue Workman seconded the motion. Motion was approved by unanimous voice vote.

ITEM 2

A request by Jan Erickson (Michael and Patricia Gomez property owners), for an appeal of staff's decision to allow a buildable lot at 210 Green Road. The property is zoned Estate and is located in the 9th district.

Linda Hodges read the staff report, and reviewed the background (see agenda report). The overhead projector was utilized to view the tax map and site plan. Lee Sanders indicated to the Board the location of the proposed home. Mr. Sanders stated this is a small 1.5 acre lot which was separated from parcel 007.00 by way of a zoning certificate. He then submitted to the Board Chairman and County Attorney a copy of a letter sent to him by Attorney Emily Plotkin. Chairman Ausbrooks asked if Ms. Plotkin was in the audience, but there was no reply. He then asked if anyone was represented by Ms. Plotkin and audience member Sara Ingram raised her hand and identified herself. The County Attorney then ruled that without Ms. Plotkin being there to respond to

questions about her correspondence it would be inappropriate to accept the letter as part of the record. Chairman Ausbrooks then returned the Plotkin letter back to staff.

This item was represented by Jan Erickson of 221 Green Road. Ms. Erickson reported that her concern was about the existing pond on the property being removed and that removed may cause flooding downstream. She stated the Estate district was supposed to maintain five acre lot size, and this lot does not comply. Ms. Erickson stated the lot was created in July 2003 and that the septic would have to be placed across the road.

Chairman Ausbrooks opened the meeting for public hearing.

Trish Gomez, the property owner of 210 Green Road, stated to the Board that other contributing factors cause flooding onto adjoining property. She stated the pond on her property holds back water and helps prevent flooding. She stressed that it is not her intent to add to the flooding problem, explaining that she will be using the roads, and that if the roads are flooded, she will not be able to get the children to school or go other places she may need to go. Ms. Gomez indicated they were working with an engineer and may configure the pond. She stated her property created a regulatory effect for flooding created by the pond which holds back water. Ms. Gomez stated she was told by the County that the lot was buildable before she purchased the property. She stated she has obtained a septic easement and has done everything the County told her to do.

Mariam Halachmi of 220 Green Road stated she and her husband want privacy and do not want a large house built next door to them. She was also concerned the water would back up to her yard.

Randall Ritter of 6423 Temple Road said that if the pond was removed it would create a run-off problem and presently the pond creates a barrier. He stated a cemetery is located northeast of the pond. Mr. Ritter felt that the Gomez family should have investigated the lot more and that the Board should reverse the County's decision.

Pamela Rose of 6418 Temple Road stated her property is adjacent to the Gomez property and that she too owns a non-conforming lot. She stated she has seen the water coming down in torrents and the pond nearly overflow. Ms. Rose felt there should be more research concerning the water flow and flooding. She is concerned with the impact of the water downstream.

Jess Erickson of 239 Green Road stated the creek is fed by the water run-off.

At this time Chairman Ausbrooks stated to the audience that this item concerns a buildable lot, not a water problem, and for them to focus on the lot, not the water. He stated that the pond is not a part of a public detention facility and could be removed if the owner desired.

Wayne Erickson of 221 Green Road stated this is not a five acre lot.

Todd Erickson of 221 Green Road stated he does not feel this should be a legal non-conforming lot.

Michael Gomez of 210 Green Road stated he was notified by the previous owner that the owner would keep the adjoining property to himself, but instead the property was sold to someone else. He stated to the Board he wanted to build a large house with a studio so that he could stay home with his children. He stated two of the four children have glaucoma. Mr. Gomez stated he would be willing to sacrifice a large home for a smaller one.

Arie Halachmi of 220 Green Road stated that Mr. Gomez has told the Board about plans for a house, yet the property is for sale. He feels Mr. Gomez is not honest and sincere.

There being no one else to speak, Chairman Ausbrooks closed the public hearing and requested a five minute break.

Chairman Ausbrooks re-opened the meeting to the Board after the break. He then asked staff if there were any other dates on record besides the 2003 plat.

Linda Hodges stated there was septic approval in 2003 but no plat was required because the lot was created in 1952 by Green Road. She stated that according to Joe Horne, this is a legal non-conforming lot.

Don Crohan stated he was having a problem agreeing that the road splitting the property made two legal lots.

Mrs. Erickson stated the property was split into three sections in the early '60's. She stated Mr. Campbell took a bulldozer and extended the road.

Chairman Ausbrooks stated that since this is a quasi judicial Board, proof must be given that the Planning Department made an error.

Attorney Ken Young stated that the zoning ordinance doesn't provide a level of proof. The Board must apply zoning ordinance to the facts to make their decision.

Steve Wherley asked staff if two or more lots could be held under one deed.

Lee Sanders said yes, we see it all the time.

Chairman Ausbrooks stated the developer could have 200 lots under the same deed.

Lee Sanders stated the setbacks for this lot would be 75' front, 25' side and 50' rear and that the land has had a legal survey. He stated 210 Green Road was approved by the Planning Department and Community Development Director as a buildable lot. Mr. Sanders stated this is a lot on record as a non-conforming lot and was on one deed until 2003. He stated the lot is buildable according to septic regulations as well.

Chairman Ausbrooks stated that the ordinance and tax assessor's office recognizes this as a buildable lot because it existed before 1988.

Steve Wherley asked the Board to look at the zoning certificate and then he read a statement from the certificate and stated he does not see where an error was made.

Steve Wherley made a motion to affirm the staff's decision and deny the applicant's request to overturn staff's decision. Chairman Ausbrooks seconded the motion and open the floor to discussion. Don Crohan stated he is still unsure. Sue Workman read a paragraph from page two of the report and stated she agrees with Joe Horne's interpretation. Motion to affirm the staff's decision approved by a 3-1 vote. Chairman Ausbrooks, Steve Wherley and Sue Workman voted yes to affirm, Don Crohan opposed. Motion carried.

There being no further business to come before the Board, meeting was adjourned.

Secretary's Signature

Date